

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2010-27-T - ORDER NO. 2010-244

APRIL 8, 2010

IN RE:	Application of Share Care Transport,)	ORDER GRANTING
	Incorporated for a Class C (Non-Emergency))	CLASS C NON-
	Certificate of Public Convenience and)	EMERGENCY
	Necessity for Operation of Motor Vehicle)	CERTIFICATE
	Carrier)	

This matter comes before the Public Service Commission of South Carolina (the “Commission”) on the Application of Share Care Transport, Inc. (“Share Care” or the “Applicant”) for a Class C (Non-Emergency) Certificate of Public Convenience and Necessity to render motor passenger service as follows:

BETWEEN POINTS AND PLACES IN CHARLESTON, GEORGETOWN,
WILLIAMSBURG, BERKELEY, MARION, AND DILLON COUNTIES.

RESTRICTED TO: 8 PASSENGERS.

Petitions to Intervene were received in this matter on behalf of L. H. Transportation Services, Inc. and Pee Dee Regional Transport Authority (“PDRTA”). Share Care filed an objection to PDRTA’s Petition to Intervene on February 16, 2010. A hearing on the Application was held on February 25, 2010 and which continued on March 2, 2010.

At the hearing, the Applicant was represented by John J. Pringle, Jr., Esquire, PDRTA was represented by Carrie A. Fox, Esquire, and the Office of Regulatory Staff (“ORS”) was represented by Jeffrey M. Nelson, Esquire. L. H. Transportation failed to

attend the hearing. As a preliminary matter at the start of the hearing, Share Care and PDRTA argued the objection to PDRTA's status as an intervenor. The Commission has determined to allow PDRTA the opportunity to present its case in this matter.

Witnesses for the Applicant included Henry Sherald, Share Care's President and owner, and Carla Wessells-Ackley, Share Care's Operations Consultant. Sherald's testimony described his business experience, role within the business, financing, and the extensive training and preparation that he and other employees had undertaken to perform the services sought in the Application. During his testimony Sherald also stated that Share Care would comply with all applicable statutes, Commission rules, and Orders.

Ms. Wessells-Ackley testified about the vehicles and equipment purchased by the Applicant in preparation for its provision of non-emergency transportation services. She also testified generally regarding the non-emergency transportation business, the types of trips that the Applicant sought to provide, and the scope of authority sought by the Applicant. Ms. Wessells-Ackley further testified on the safety, insurance, and inspection requirements applicable to Share Care's vehicles, drivers, equipment, and operations, and stated that Share Care met all such requirements and would do so on a going-forward basis if certified by the Commission. Ms. Wessells-Ackley also testified regarding the current demand for the services in the counties for which Share Care seeks authority, and in particular one or more contracts under which Share Care intends to operate.

Officer Teeter testified on behalf of the ORS. Mr. Teeter testified regarding his inspection and audit of the Applicant's vehicles, driver files, and equipment, and his review of the Applicant's compliance with various licensing, training, inspection, and

testing requirements. Additionally, Mr. Teeter offered the ORS Passenger Carrier Audit Report Form (“ORS Audit Report Form”), stating “[a]ll PSC regulations were met and the company passed inspection.” Mr. Teeter offered no concerns regarding the Applicant’s fitness or ability to provide the services.

The witness for PDRTA was its Director, Janice Baroody. Ms. Baroody testified about PDRTA, its service area, the types of services it provides, the regulatory structure under which PDRTA provides certain non-emergency charter services, and her opinion regarding whether Share Care is fit to provide Class C (Non-Emergency) services and whether the public convenience and necessity for the services is currently being met.

Discussion

To receive a Class C (Non-Emergency) Certificate of Public Convenience and Necessity under the circumstances of this Docket, Share Care must show that it complies with the general requirements of 26 S.C. Code Ann. Regs. 103-133(4) by proving it is “Fit, Willing, and Able” to provide passenger services as well as the specific requirements of 26 S.C. Code Ann. Regs. 103-133(6), which include certain driver qualifications, vehicle and maintenance requirements, a drug testing mandate, periodic inspection standards, and minimum insurance limits. PDRTA has objected to Share Care’s Application on the grounds that it “does not contain ample information that is determinative of the Applicant’s fitness, ability, and willingness to operate Non-Emergency Vehicles as prescribed in South Carolina Code Ann. Regs. § 103-133(4) and § 103-133(6)...” PDRTA further asserts that the public convenience and necessity is already being served.

PDRTA is a government funded statutory entity that provides non-emergency medical transportation services and bussing services throughout six counties in the Pee Dee region of the State. PDRTA argues that the public convenience and necessity is already being served because it has empty seats on a daily basis and therefore the capacity to serve more non-emergency medical transport clients. However, the public convenience and necessity refers only to whether the demand for certain transportation is being met by the providers that the Commission regulates, not by what other providers may be offering in the way of similar services. Further, while both are clients of non-emergency medical transport broker LogistiCare for Medicaid patients, they would only both be receiving appointments from this broker where their territories overlap in Dillon and Marion Counties, which is only a portion of the territory that Share Care seeks to serve. Lastly, PDRTA stated in testimony that it does not feel it competes with private companies because it is a government funded entity with restrictions on how it operates.¹

Based on the foregoing, we find that Share Care's testimony at the hearing adequately proves that it is fit, willing, and able to operate as a Class C (Non-Emergency) carrier. We further find that the public convenience and necessity allows for new entrants of authorized carriers in the counties where Share Care proposes to operate. Lastly, we find that Share Care meets all of the other requirements to receive a

¹ See Tr. 162-163 (Vol.2) ("Q: And I guess the question that's been on my mind since this started and I saw your intervention is, it appears to me, or at least it has the appearance that what we have is a federally and state funded organization that's attempting to keep out private competition. Can you explain to me why, you know -- what the -- I mean, we're looking at PDRTA as an RTA that is funded by the federal government, and it looks like you all are coming in here trying to keep out a private enterprise that wants to compete with you. Can you tell me why you're not --

"A: Okay. Number one, we do not feel that we compete with private entities, because of certain restrictions on the way we do business.")

Certificate. The Company has vehicles, insurance, and drivers with good safety records and qualifications, the record indicates that it has undertaken the training required to perform its business, and the ORS inspection of Share Care has resulted in a satisfactory rating.

IT IS THEREFORE ORDERED:

1. The Application of Share Care Transport, Inc. for a Class C Non-Emergency Certificate of Public Convenience and Necessity is approved.

2. The Applicant shall file with the Office of Regulatory Staff the proper license fees, proof of liability insurance (i.e. "Form E"), and other information required by S.C. Code Ann. Section 58-23-10 et seq. (1976), as amended, and by 26 S.C. Code Ann. Regs. 103-100 through 103-241 (Supp. 2009) of the Commission's Rules and Regulations for Motor Carriers, and 23A S. C. Code Ann. Regs. 38-400 through 38-503 (Supp. 2009) of the Department of Public Safety's Rules and Regulations for Motor Carriers, within sixty (60) days of the date of this Order, or within such additional time as may be authorized by the Commission.

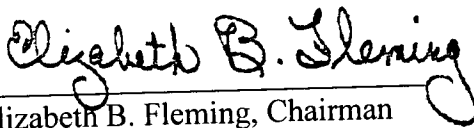
3. Failure of the Applicant to either (1) complete the certification process by complying with the requirements of filing with the ORS proof of appropriate insurance and the payment of license fees and such other information required by law within sixty (60) days of the date of this Order or (2) request and obtain from the Commission additional time to comply with the requirements stated above, may result in the authorization approved in this Order being revoked.

4. Upon compliance with the filing of information as required by S.C. Code Ann. Section 58-23-10, et seq. (1976), as amended, and the applicable Regulations for Motor Carriers, S.C. Code Ann. Regs. Vol. 26 (Supp. 2009), as amended, a Certificate shall be issued by the ORS to the Applicant authorizing the motor carrier services granted herein.

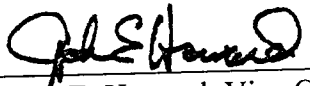
5. Prior to compliance with the requirements regarding the filing of certain information with the ORS and receipt of a Certificate, the motor carrier services authorized by this Order may not be provided.

6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Elizabeth B. Fleming, Chairman

ATTEST:


John E. Howard, Vice Chairman

(SEAL)